

**BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA**

Docket No. 2003-326-C

IN RE:	)	
	)	
Analysis of Continued Availability	)	<b>MOMENTUM BUSINESS</b>
Of Unbundled Local Switching for	)	<b>SOLUTIONS, INC.'S</b>
Mass Market Customers Pursuant	)	<b>OBJECTIONS TO</b>
To the Federal Communication	)	<b>BELLSOUTH'S FIRST</b>
Commission's Triennial Review Order	)	<b>REQUEST FOR PRODUCTION</b>
	)	<b>OF DOCUMENTS</b>
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Momentum Business Solutions, Inc. ("Momentum"), pursuant to the Rules of Practice and Procedure of the South Carolina Public Service Commission ("Commission") and pursuant to the South Carolina Rules of Civil Procedure, hereby generally and specifically objects to BellSouth Telecommunications, Inc.'s (hereinafter "BellSouth") First Requests for Production of Documents served on November 17, 2003. The Objections stated herein are preliminary in nature and are made at this time for the purpose of complying with the ten-day requirement as set forth in the CompSouth/BellSouth Joint Motion for Initial Procedural Order filed on November 12, 2003. Subject to the objections stated herewith, Momentum will respond to BellSouth's First Requests for Production of Documents pursuant to the terms of the Proposed Initial Procedural Order. Any answer that Momentum may provide in response to the BellSouth discovery will be provided subject to, and without waiver of, these objections. Momentum reserves the right to amend, supplement, or revise these objections, and assert additional objections, should Momentum discover additional grounds for objecting as Momentum prepares its responses to any discovery or at any time prior to hearing.

## **I. General Objections**

Momentum makes the following General Objections to BellSouth's First Requests for Production of Documents, including the applicable definitions and instructions therein ("BellSouth discovery"), which, as appropriate, will be incorporated into each relevant response when such responses are served on BellSouth.

1. Momentum objects to the BellSouth discovery to the extent that such discovery seeks to impose an obligation on Momentum to respond on behalf of subsidiaries, affiliates, or other persons that are not parties to this case on the grounds that such discovery is overly broad, unduly burdensome, oppressive, and not permitted by applicable discovery rules. Momentum further objects to any and all BellSouth discovery that seeks to obtain information from Momentum for Momentum subsidiaries, affiliates, or other related Momentum entities that are not certificated by the Commission. BellSouth's definitions of "you", "your", and "company" are examples of BellSouth's attempt to impose the above-referenced obligation on Momentum.

2. Momentum has interpreted the BellSouth discovery to apply to Momentum's regulated intrastate operations in South Carolina and will limit its responses accordingly. To the extent that any BellSouth discovery is intended to apply to matters that take place outside the state of South Carolina and which are not related to South Carolina intrastate operations subject to the jurisdiction of the Commission, Momentum objects to such request as irrelevant, overly broad, unduly burdensome, and oppressive.

3. Momentum objects to the BellSouth discovery to the extent that such discovery calls for information which is exempt from discovery by virtue of the attorney-client privilege, work product privilege, or other applicable privilege.

4. Momentum objects to the BellSouth discovery insofar as such discovery is vague, ambiguous, overly broad, imprecise, or utilizes terms that are subject to multiple interpretations and are not properly defined or explained for purposes of these requests. Any responses provided by Momentum in response to BellSouth discovery will be provided subject to, and without waiver of, the foregoing objection.

5. Momentum objects to the BellSouth discovery insofar as such discovery is not reasonably calculated to lead to the discovery of admissible evidence and is not relevant to the subject matter of this action.

6. Momentum objects to the BellSouth discovery insofar as it seeks information or documents, or seek to impose obligations on Momentum which exceed the requirements of the South Carolina Rules of Civil Procedure, South Carolina law, or the rules and regulations of the South Carolina Public Service Commission.

7. Momentum objects to providing information to the extent that such information is already in the public record before the South Carolina Public Service Commission, the FCC, is otherwise publicly available, or which is already in the possession, custody, or control of BellSouth.

8. Momentum objects to the BellSouth discovery to the extent that such discovery is overly broad, unduly burdensome, expensive, oppressive, or excessively time consuming as written.

9. Momentum objects to each and every request to the extent that the information requested constitutes "trade secrets," confidential or proprietary information, which are privileged or exempt from public disclosure pursuant to applicable South Carolina law or rules of the Commission.

10. Momentum is an entity with employees located in different locations in South Carolina and in other states. In the course of its business, Momentum creates countless documents that are not subject to South Carolina Public Service Commission or FCC retention of records requirements. These documents are kept in numerous locations and are frequently moved from site to site as employees change jobs or as the business is reorganized. Therefore, it is possible that not every document has been identified in response to these requests. Momentum will conduct a reasonable and diligent search of those files that are reasonably expected to contain the requested information. To the extent that the BellSouth discovery purports to require more, Momentum objects on the grounds that compliance would impose an undue burden or expense.

11. Momentum objects to the BellSouth discovery that seeks to obtain "all," "each," or "every" document, item, customer, or other such piece of information to the extent that such discovery is overly broad and unduly burdensome. Any answers that Momentum may provide in response to the BellSouth discovery will be provided subject to, and without waiver of, this objection.

12. Momentum objects to the BellSouth discovery to the extent such discovery seeks to have Momentum create documents not in existence at the time of the request.

13. Momentum objects to the BellSouth discovery as overly broad and unduly burdensome to the extent that such discovery is not limited to any stated period of time or a stated period of time that is longer than is relevant for purposes of the issues in this docket.

14. In light of the short period of time Momentum has been afforded to

respond to the BellSouth discovery, the development of the Momentum positions and potentially responsive information to the BellSouth requests is necessarily ongoing and continuing. This process is further complicated since at this point in time, the actual issues to be set forth for hearing in this docket have not yet been established by order of the Commission. Accordingly, these are preliminary objections to comply with the CompSouth/BellSouth Joint Procedural Motion and Momentum reserves the right to supplement, revise, or modify its objections at the time that it serves its actual responses to the BellSouth discovery. However, Momentum does not assume an affirmative obligation to supplement answers on an ongoing basis, contrary to the BellSouth General Instruction.

15. Momentum objects to BellSouth's First Requests for Production to Momentum to the extent that the Requests purport to seek discovery of information and/or materials containing the mental impressions, conclusions, opinions or legal theories of any attorney or other representative of Momentum concerning the subject of the proceeding and prepared and developed in anticipation of litigation pursuant to S.C. Ann. Regs. 103-851 and 103-854 and South Carolina Rules of Civil Procedure, Rule 34, without the requisite showing from BellSouth that the denial of production or inspection will unfairly prejudice BellSouth in preparing its claim or defense or will cause BellSouth undue hardship or injustice.

16. Momentum objects to the BellSouth discovery to the extent that the definitions operate to seek discovery of matters other than those subject to the jurisdiction of the Commission, pursuant to the FCC's Triennial Review Order, Commission regulations, and South Carolina law.

17. Momentum objects to the BellSouth discovery to the extent that it asks for information that may not be available in precisely the same format, category, or definitions from Momentum systems, which systems are limited in terms of their capacity to produce unlimited reports and information in any format, category or definition requested.

## **II. Specific Objections**

Momentum makes the following Specific Objections to the BellSouth discovery, which as appropriate will be incorporated into each relevant response when Momentum's responses are served on BellSouth.

18. Momentum objects to each and every request for production that seeks information regarding Momentum's operations in Incumbent Local Exchange Carrier ("ILEC") service areas other than the BellSouth ILEC service area within the state of South Carolina as such information is irrelevant to BellSouth's case in this docket and such discovery is overly broad and unduly burdensome.

19. Momentum objects to each and every request for production that seeks to obtain information regarding "former officers, employees, agents, directors, and all other persons acting or purporting to act on behalf of Momentum" as such information is not within Momentum's control, would be unduly burdensome to attempt to obtain and is likely irrelevant.

20. To the extent that BellSouth's discovery requests specific financial, business or proprietary data regarding Momentum's economic business model, Momentum objects to providing any such information on the grounds that those requests presume the market entry analysis is contingent upon Momentum's economic business

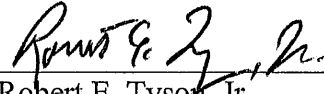
model instead of a hypothetical business model contemplated by the Triennial Review Order and such information is confidential and proprietary to Momentum.

21. Outside of the discovery request served by BellSouth, there have been discussions between BellSouth and some of the Competitive Local Exchange Carriers ("CLECs") that this discovery is "regional" in nature and that BellSouth would prefer that the CLECs respond on a regional basis without additional service in these other states. At this point in time, without necessarily agreeing or disagreeing with BellSouth's request for regional answers, Momentum reserves its rights to object to providing responsive information for states other than South Carolina. Further, in the event Momentum does provide responsive information for states other than South Carolina pursuant to the discovery in this South Carolina docket, Momentum reserves its rights to not provide such non-South Carolina information in the South Carolina Commission docket. Finally, in the event Momentum does provide information for states other than South Carolina pursuant to the discovery in this South Carolina docket, Momentum reserves its rights to provide such non-South Carolina information on a schedule other than that provided solely for this Commission docket.

22. Momentum objects to the production of documents regarding any interrogatory to which Momentum has objected.

23. Momentum incorporates each General Objection to each and every BellSouth request for production of documents.

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Attorneys for Momentum Business Solutions, Inc.

Columbia, South Carolina

December 1, 2003



**CERTIFICATE OF SERVICE**

I, the undersigned paralegal of the law offices of Sowell Gray Stepp & Laffitte, L.L.C., attorneys for Momentum Business Solutions, Inc., do hereby certify that I have a copy of the pleading(s) hereinbelow specified via e-mail to the following address(es):

**Pleadings:** **Momentum Business Solutions, Inc.'s Objections to BellSouth's First Request for Production of Documents**

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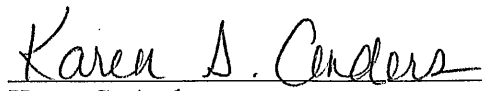
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